

### **REMARKS**

Claims 1-9, 11-13, and 19-36 are pending in the application. Claims 1-9, 11-13, and 19-36 stand rejected. Applicant requests the Examiner reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **STATEMENT OF COMMON OWNERSHIP**

The application and the reference, Yu et al. (U.S. Pat. No. 6,456,726), were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 1-4, 6-9, 11-13, 19-27, and 29-36 stand rejected under 35 U.S.C. § 103(a) as being obvious over Chen et al. (U.S. Pat. No. 6,314,192) in view of Ding et al. (U.S. Pat. No. 5,699,361) and Yu et al.. This rejection is respectfully traversed.

The Examiner admits (*see* p. 4, l. 27 - p. 5, l. 1 of the presently outstanding Office action) that neither Chen et al. nor Ding et al. teach, suggest, or motivate that the active data stream is inserted into a high capacity region of a visual channel, while other control data is embedded into a relatively high robustness region of the visual channel, the high capacity region having higher capacity and lower robustness than the high robustness region. The Examiner relies solely on Yu et al. to teach this subject matter recited in each of the independent claims of the present application.

Applicant respectfully directs the Examiner's attention to the accompanying Affidavit filed concurrently herewith to show that the reference invention in Yu et al. is not "by another" (*see* MPEP §§ 706.02(b) and 715.01(a)). Therefore, Yu et al. does not

qualify as prior art to the claimed invention under 35 U.S.C. § 102(a). In point of fact, Yu et al. only qualifies as prior art to the claimed invention under 35 U.S.C. § 102(e).

Applicant respectfully directs the Examiner's attention to the Statement of Common Ownership provided above (see MPEP § 706.02(I)(2)(II)). Therefore, Yu et al., being subject to the 35 U.S.C. § 103(c) exception for 35 U.S.C. 102(e)(f), and (g) art applied under 35 U.S.C. § 103(a), is disqualified as prior art for 35 U.S.C. 103(a) purposes.

Accordingly, Applicant respectfully requests the Examiner reconsider and withdraw the rejection of independent claims 1, 22, and 36 under 35 U.S.C. 103(a), along with rejection on these grounds of all claims dependent therefrom.

Claim 5 and 28 stand rejected under 35 U.S.C. § 103(a) as being obvious over Chen et al. (U.S. Pat. No. 6,314,192) in view of Ding et al. (U.S. Pat. No. 5,699,361), Yu et al., and Numao et al. (U.S. Pat. No. 6,512,835). This rejection is respectfully traversed.

For discussion of Chen et al., Ding et al., and Yu et al., Applicant respectfully directs the Examiner's attention to remarks detailed above with respect to rejection of claims 1-4, 6-9, 11-13, 19-27, and 29-36. Applicant further asserts that Numao et al. fails to teach, suggest, or motivate that the active data stream is inserted into a high capacity region of a visual channel, while other control data is embedded into a relatively high robustness region of the visual channel, the high capacity region having higher capacity and lower robustness than the high robustness region.

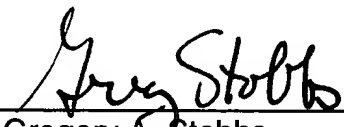
Accordingly, Applicant respectfully requests the Examiner reconsider and withdraw the rejection of dependent claims 5 and 28 under 35 U.S.C. 103(a) based on their dependence from allowable base claims.

**CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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